

**THE TAMILNADU STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
CHENNAI.**



Present: Hon'ble Thiru Justice R.REGUPATHI,
Thiru.A.K.Annamalai,
Thiru.S.Sambandam,

President
Judicial Member
Member.

R.P.No.115/2011

[Against order in C.M.P.No.89/2011 in C.C.No.27/2011 on the file of the
DCDRF, Namakkal)

MONDAY THE 25th DAY OF JUNE 2012

1. P. Venkatachalam,
Public Information Officer,
District Library,
Namakkal.

2. S. Jagadeesan,
District Library Officer,
District Library,
Namakkal.

Petitioners/Petitioners / Opposite parties

Vs

1. Indirakumar,
S/o. Natarajan,
3/57, Muthanampalayam,
S. Nattamangalam Post,
Gurusamipalayam – 637 403.
Rasipuram Taluk,
Namakkal District.

2. K. Subramani,
Secretary,
Chinnamanali Consumer Environment and
Right to Information Association,
2/177, Chinnamanali – 637 410,
Tiruchengode Taluk,
Namakkal District.

Respondents/Respondents/Complainants

Counsel for the petitioners/petitioners/Ops : M/s. N. Manokaran, Advocates.
For the Respondents/Respondents/Complainants : M/s. B. Ramesh, Respondent.

This Review Petition having come for final hearing before us on 25.06.2012 in the presence of both the parties and hearing upon the arguments counsel for both sides, this Commission pronounced the following

ORDER

HON'BLE JUSTICE.R. REGUPATHI, PRESIDENT. (Open Court)

This review petition has been filed by the petitioners/petitioners/ opposite parties to call for records pertaining to the order in CMP No.89/2011 dated 17.10.2011 by dismissing the maintainability of complaint in C.C. No.27/2011 on the file of the District Consumer Disputes Redressal Forum, Namakkal and set aside the same.

The complainant before the District Consumer Disputes Redressal Forum, Namakkal, seeking for certain information from the authorities under the Right to Information Act 2005 preferred a complaint alleging that the petitioners/opposite parties have not furnished the details as required and replied in an evasive manner and thereby alleged deficiency of service against them filed the complaint for which the opposite parties filed petition under section 21, 22 and 23 of Right to Information Act 2005 to dismiss the complaint as barred by jurisdiction. The District Forum passed the order by overruling the objection regarding the jurisdiction in its order as follows: **"Hence, the objection regarding the jurisdiction of this Forum to entertain the**



complaint raised on the basis of Sections 21 to 23 of Right to Information Act is not acceptable and it is held that this complaint is a complaint as defined under the Consumer Protection Act and maintainable in this Forum and consequently this application is dismissed but without costs".

2. When the Revision Petition is pending, counter has been filed by Respondents/complainants.

3. The learned counsel for the Revision Petitioners/Opposite parties contended that the impugned order has been passed erroneously without taking into consideration of the provisions of the law as well as judgment of the National Consumer Disputes Redressal Commission, New Delhi. The learned counsel for the complainant/respondent while filing the counter emphasized that the impugned orders passed by the District Forum is to be sustained.

4. Perused and heard.

5. Section 23 of the Right to Information Act, 2005 specifically bars the jurisdiction of the Consumer Court which reads as follows: **"No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.** Under section 19 of the same Act it is stated as follows: **"Appeal (1) "Any person who does not receive a decision within the time specified in sub-section (1) or clause (a) of sub section (3) of section 7, or is aggrieved by a decision**

of the Central Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer, as the case may be, in each public authority". As per the provision, the aggrieved person who do not receive information or decision within the prescribed time he has to prefer an appeal before the concerned authority and under such circumstances and the complainant may not be considered as consumer as defined under the Consumer Protection Act, 1986 since the remedy is available in the same Act. This view has been emphasized by the **National Consumer Disputes Redressal Commission in R.P.No.4061/2010 dated 31.03.2011** as follows: **"At the outset it is not in dispute that complainant had filed an application u/s 6 & 7 of the Right to Information Act to the OP No.4. But, complainant cannot be considered as a consumer as defined under the C.P. Act since there is a remedy available for the complainant to approach the appellate authority u/s 19 of the RTI Act, 2005."** In such circumstances, the ruling relied on by the complainant in the counter reported in Hon'ble Supreme Court in Civil Appeal No.7543/2004, (National Seeds Corporation Ltd., - Vs - M. Madhusudhan Reddy and another) cannot be applicable to the facts and circumstances of the case and even in that case judgment in page 53 while



referring the various cases and in the case of **Thirumurugan Co-operative Agricultural Credit Society – Vs – Lalitha (Supra)** observed as follows:

“ The trend of the decisions of this Court is that the jurisdiction of the Consumer Forum should not and would not be curtailed unless there is an express provision prohibiting the Consumer Forum to take up the matter which falls within the jurisdiction of civil court or any other forum as established under some enactment.”

In our case, as pointed out above, since there is specific bar under section 23 of R.T.I. Act 2005, District Forum wrongly relied on above judgment without going into entire facts and circumstances of the case as reported. In these circumstances, we are of the view that the order passed by the District Forum is not acceptable and to be set aside by allowing the revision petition.

In the result, the Revision Petition is allowed. There will be no order as to costs.

(sd/-)


**S.SAMBANDAM,
MEMBER**

(sd/-)

**A.K.ANNAMALAI
JUDL.MEMBER**

(sd/-)

**R.REGUPATHI
PRESIDENT**

STATE CONSUMER DISPUTES REDRESSAL COMMISSION, CHENNAI	
TAMIL NADU	
1. Date of Order	RP/15/11 25.6.12
2. Date when copy was made ready for issue	26.6.12
3. Date of delivery / dispatch of free copy	03.08.12
4. Date of application for duplicate copy	
5. Date of issuance of duplicate copy	
 REGISTRAR, STATE COMMISSION, CHENNAI TAMIL NADU	

26/7/12